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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,180	03/09/2007	Jussi Malmberg	BKS.026.WUS	6723
76385	7590	07/07/2009	EXAMINER	
Hollingsworth & Funk, LLC 8009 34th Avenue South Suite 125 Minneapolis, MN 54425			PHAM, TOAN NGOC	
		ART UNIT	PAPER NUMBER	
		2612		
		MAIL DATE		DELIVERY MODE
		07/07/2009		PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/588,180	MALMBERG ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Toan N. Pham	2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-12 and 15-34 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-12 and 15-34 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. ____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date ____ .	6) <input type="checkbox"/> Other: ____ .

## **DETAILED ACTION**

### ***Claim Objections***

Claims 1-1215, 16, 19-34 are objected to because of the following informalities:

In the independent claims 1, 8, 10, 19, 33 and 34; "Method" should be changed to -- A method --, "Mobile" should be changed to -- A mobile --.

In the dependent claims, "Method" and "Mobile" should be changed to -- The method -- or -- The mobile --.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 17 and 18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Specifically, claims 17 and 18 recite a program code stored on a computer readable medium, but fail to recite any execution step(s), and such the Examiner has made the determination that said claims are software *per se*, and as such constitute nonstatutory functional descriptive material.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application

by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-12 and 15-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Kaaresoja et al. (US 6,963,762) (herein Kaaresoja).

Regarding claim 1: Kaaresoja discloses mobile phone using tactile icons comprising: defining at least one vibration effect defined by at least one vibration signal parameter, defining at least one vibration by at least one of said vibration effects and storing said at least one vibration into a storage (col. 4, lines 30-60).

Regarding claim 2: Kaaresoja discloses vibration signal parameter includes at least one of a designation, an intensity, and a duration of a vibration (col. 4, lines 30-48; col. 5, lines 15-25).

Regarding claim 3: Kaaresoja discloses said at least one vibration is also defined by a designation of the vibration pattern (col. 4, lines 30-48).

Regarding claim 4: Kaaresoja discloses said vibrations are further defined by a frequency and a phase of said vibration (col. 5, lines 16-19).

Regarding claim 5: Kaaresoja discloses retrieving said at least one stored vibration and sending said at least one vibration to a terminal device (col. 4, lines 49-60).

Regarding claim 6: Kaaresoja discloses selecting at least one of said stored vibration patterns (col. 4, lines 45-48).

Regarding claim 7: Kaaresoja discloses receiving vibration data, and defining said vibration effects and said at least one vibration pattern according to said vibration data (col. 4, lines 30-48).

Regarding claim 8: Kaaresoja discloses mobile phone using tactile icons comprising receiving at least one vibration wherein each pattern is defined by a succession of vibration effects wherein each vibration effect is defined by at least one vibration signal parameter, and storing said at least one vibration pattern (col. 4, lines 30-60).

Regarding claim 9: Kaaresoja discloses receiving a request for a vibration retrieving said requested vibration and sequentially outputting each vibration effect by controlling a vibration actuator accordingly (col. 4, lines 21-60).

Regarding claim 10: Kaaresoja discloses mobile phone using tactile icons comprising: receiving at least one vibration wherein each pattern is defined by at least one vibration effect and wherein each of said vibration effects is defined by at least one

vibration signal parameter, and sequentially outputting each of said at least one vibration effect of said received vibration by controlling a vibration actuator accordingly (col. 4, lines 30-60).

Regarding claim 11: Kaaresoja discloses vibration signal parameter includes at least one of a designation, an intensity, and a duration of a vibration (col. 4, lines 30-48; col. 5, lines 15-25).

Regarding claim 12: Kaaresoja discloses said at least one vibration pattern is also defined by a designation of the vibration pattern (col. 4, lines 30-48).

Regarding claim 15: Kaaresoja discloses said vibration intensity of said vibration effects is defined by a duty cycle (col. 5, lines 11-14).

Regarding claim 16: Kaaresoja discloses wherein said vibration patterns and vibration effects are stored and sent as extensible markup language coded data (col. 4, lines 35-60).

Regarding claims 17 and 18: See claim 1 above.

Regarding claim 19: Kaaresoja discloses a mobile terminal device comprising, a processing unit, an interface connected to said processing unit, and a vibration actuator (100) connected to said processing unit (106), wherein characterized said terminal device is configured to receive at least one vibration via said interface, wherein said vibration comprises at least one vibration effect and wherein each said vibration effect comprises at least one vibration signal parameter, and wherein said processing unit is further configured to control said vibration actuator according to said vibration signal parameters of said at least one vibration effect (col. 4, lines 21-60).

Regarding claim 20: Kaaresoja discloses wherein said vibration signal parameter includes at least one of a designation, an intensity, and a duration of a vibration (col. 4, lines 30-48; col. 5, lines 15-25).

Regarding claim 21: Kaaresoja discloses at least one vibration is also defined by a designation of the vibration (col. 4, lines 30-48).

Regarding claim 22: Kaaresoja discloses wherein said vibrations are received in form of extended markup language files (col. 4, lines 35-60).

Regarding claim 23: Kaaresoja discloses a storage to store said received vibration (col. 4, lines 35-48).

Regarding claim 24: Kaaresoja discloses processing unit is configured to execute an application program capable of accessing stored vibration (col. 4, lines 35-48).

Regarding claim 25: Kaaresoja discloses wherein said interface comprises a radio interface (104) (col. 4, lines 60-63).

Regarding claim 26: Kaaresoja discloses wherein said mobile terminal device comprises a mobile telephone, and wherein said vibration actuator is a vibration alarm actuator of the telephone (col. 4, lines 21-27; col. 5, lines 11-13).

Regarding claim 27: Kaaresoja discloses wherein said vibration intensity of said vibration effects is defined by a duty cycle (col. 5, lines 11-14).

Regarding claim 28: Kaaresoja discloses said vibration patterns and vibration effects are stored and sent as extensible markup language coded data (col. 4, lines 35-60).

Regarding claim 29: Kaaresoja discloses vibration signal parameter includes at least one of a designation, an intensity, and a duration of a vibration (col. 4, lines 30-48; col. 5, lines 15-25).

Regarding claim 30: Kaaresoja discloses said at least one vibration pattern is also defined by a designation of the vibration pattern (col. 4, lines 30-48).

Regarding claim 31: Kaaresoja discloses wherein said vibration intensity of said vibration effects is defined by a duty cycle (col. 5, lines 11-14).

Regarding claim 32: Kaaresoja discloses said vibration patterns and vibration effects are stored and sent as extensible markup language coded data (col. 4, lines 35-60).

Regarding claims 33 and 34: See claim 1 above.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art of Yang et al. (US 2005/0064912), Tsukamoto (US 2001/0044328), and Kaplan (US 2004/0203490) are cited to show a variety of vibration output commands for cell phones.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan N. Pham whose telephone number is (571) 272-2967. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Benjamin C. Lee can be reached on (571) 272-2963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Toan N Pham/  
Primary Examiner, Art Unit 2612  
07/02/09